

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

SANDY J. BATTISTA,)	
Plaintiff,)	
)	C.A. No. 04-10226-MEL
v.)	
)	
ROBERT MURPHY, et al.,)	
Defendants.)	

ORDER ON MOTION TO PROCEED ON APPEAL IN FORMA PAUPERIS

On June 3, 2004, plaintiff Sandy J. Battista, a civilly committed patient¹ at the Massachusetts Treatment Center, filed a notice of appeal from this Court's Order denying plaintiff's Application to Proceed Without Prepayment of Fees. See Docket No. 7.

Now before the Court is plaintiff's motion to waive docketing fee and to be allowed to proceed on appeal in forma pauperis. See Docket No. 9. Plaintiff explains, among other things, that she has no source of income other than her institutional employment and that the \$850 in her prison account came primarily from a small inheritance she received "from her fathers 2001 passing." Id. at p. 1. Plaintiff further explains that because she has several unrelated actions pending, she may have "no other alternative than to

¹Plaintiff was formerly known as David E. Megarry, Jr. Because plaintiff refers to himself with female pronouns, the attached order states "[t]he Court recognizes that the pleadings refer to plaintiff with female pronouns and will refer to plaintiff using female pronouns.

'pick-and-choose' which action to appeal and which action to abandon." Id. at p. 2.

Because the Court finds plaintiff has sufficient funds to pay the appeal fee for this action, plaintiff's motion will be denied.

ORDER

Based upon the foregoing, plaintiff's motion (Docket No. 9) to waive docketing fee and to be allowed to proceed on appeal in forma pauperis is DENIED.

The Clerk shall transmit this order as a supplemental record to the First Circuit Court of Appeals.

SO ORDERED.

Dated at Boston, Massachusetts, this 24th day of August 2004.

/s/ Morris E. Lasker

Morris E. Lasker

UNITED STATES SENIOR DISTRICT JUDGE

